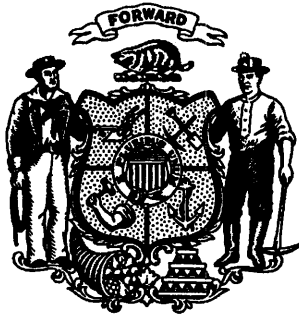


# State of Wisconsin



2003 Assembly Bill 67

Date of enactment:  
Date of publication\*:

## 2003 WISCONSIN ACT

**AN ACT** to renumber and amend 111.337 (1), 253.09 (1), 441.06 (6) and 448.03 (5) (a); to amend 253.09 (title), 253.09 (2), 253.09 (3), 253.09 (4) (a), 253.09 (4) (b) 1., 253.09 (4) (b) 2., 441.06 (title) and 448.03 (5) (title); and to create 111.337 (1g), 111.337 (1r) (b), 154.12, 155.75, 253.09 (1g), 253.09 (1r) (a) 1. to 8., 253.09 (5), 441.06 (6) (a), 441.06 (6) (b) 1. to 8., 441.06 (7), 441.06 (8), 448.03 (5) (ag), 448.03 (5) (am) 1. to 8., 448.03 (5) (an) and (aq), 448.03 (5) (ar) and 450.135 of the statutes; relating to: employment discrimination based on creed; exemption from liability and discipline for health care providers and hospital employees who refuse to participate in sterilization, abortion, assisted suicide, and other procedures on moral or religious grounds; and power of attorney for health care instruments and patient declarations regarding the withholding or withdrawal of feeding tubes.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 111.337 (1) of the statutes is renumbered 111.337 (1r) (intro.) and amended to read:

111.337 (1r) (intro.) Employment discrimination because of creed includes, but is not limited to, refusing any of the following:

(a) Refusing to reasonably accommodate an employee's or prospective employee's religious observance or practice unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise, or business.

**SECTION 2.** 111.337 (1g) of the statutes is created to read:

111.337 (1g) In this section:

(a) "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. "Human embryo" includes a zygote but does not include a human organism at or beyond the

stage of development at which the major body structures are present.

(b) "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body.

(c) "Participate in" means to perform; practice; engage in; assist in; recommend; counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or otherwise promote, encourage, or aid.

**SECTION 3.** 111.337 (1r) (b) of the statutes is created to read:

111.337 (1r) (b) Discriminating against an employee or prospective employee by engaging in any of the actions prohibited under s. 111.322 on the basis of the employee's or prospective employee's refusal, or statement of an intention to refuse, whether or not in writing, based on his or her creed, to participate in any of the following:

\* Section 991.11, WISCONSIN STATUTES 2001-02: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

1. A sterilization procedure.
2. An abortion, as defined in s. 253.10 (2) (a).
3. An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo.
4. An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo.
5. An experiment or medical procedure on a developing child in an artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child.
6. A procedure, including a transplant procedure, that uses fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage.
7. The withholding or withdrawal of nutrition or hydration from a patient who is not in a terminal condition, as defined in s. 154.01 (8), if the withholding or withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than from an underlying illness or injury, unless the administration of nutrition or hydration is medically contraindicated.

8. An act that intentionally causes or assists in causing the death of an individual by assisted suicide, euthanasia, or mercy killing.

**SECTION 4m.** 154.12 of the statutes is created to read:

**154.12 Conscience rights notification.** A physician who receives a declaration from his or her patient who is a declarant, or, if the patient is incompetent, from a legal representative of the patient, shall immediately review the declaration and, if the physician intends to invoke his or her rights under s. 253.09 or 448.03 (5), shall, as soon as possible, inform the patient or the legal representative orally and in writing of that intent and of the physician's concerns, if any, about the declaration. A hospital that receives a declaration from a patient in its facility who is a declarant, or, if the patient is incompetent, from a legal representative of the patient, shall immediately review the declaration and, if the hospital intends to invoke its rights under s. 253.09, shall, as soon as possible, inform the patient or the legal representative orally and in writing of that intent and of the hospital's concerns, if any, about the declaration.

**SECTION 5m.** 155.75 of the statutes is created to read:

**155.75 Conscience rights notification.** A physician who receives a power of attorney for health care instrument from his or her patient who is a principal, or, if the patient has incapacity, from the patient's health care agent, shall immediately review the instrument and, if the physician intends to invoke his or her rights under s. 253.09 or 448.03 (5), shall, as soon as possible, inform the patient or the patient's health care agent orally and in writing of that intent and of the physician's concerns, if any, about the instrument. A hospital that receives a

power of attorney for health care instrument from a patient in its facility who is a principal, or, if the patient has incapacity, from the patient's health care agent, shall immediately review the instrument and, if the hospital intends to invoke its rights under s. 253.09, shall, as soon as possible, inform the patient or the patient's health care agent orally and in writing of that intent and of the hospital's concerns, if any, about the instrument.

**SECTION 6.** 253.09 (title) of the statutes is amended to read:

**253.09 (title) ~~Abortion-refused~~ Refusal to participate in certain practices; no liability; no discrimination.**

**SECTION 7.** 253.09 (1) of the statutes is renumbered 253.09 (1r) (a) (intro.) and amended to read:

**253.09 (1r) (a) (intro.)** No hospital shall be is required to admit any patient or to allow the use of the hospital facilities for the purpose of performing a sterilization procedure or removing a human embryo or fetus. any of the following:

(b) A physician or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which such a procedure the performance of an activity specified in par. (a) 1. to 8. has been authorized, who shall state in writing his or her objection to the performance of or providing assistance to such a procedure, in writing, refuses, or states an intention to refuse, to participate in the activity on moral or religious grounds shall may not be required to participate in such medical procedure, and the activity.

(c) A physician or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital, is immune from liability for any damage caused by, and may not be subjected to any disciplinary or recriminatory action based on, the refusal of any such the person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person in an activity specified in par. (a) 1. to 8. on moral or religious grounds.

**SECTION 8.** 253.09 (1g) of the statutes is created to read:

**253.09 (1g) In this section:**

(a) "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. "Human embryo" includes a zygote but does not include a human organism at or beyond the stage of development at which the major body structures are present.

(b) "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body.

(c) "Participate in" means to perform; practice; engage in; assist in; recommend; counsel in favor of; make referrals for; prescribe, dispense, or administer

drugs or devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or otherwise promote, encourage, or aid.

SECTION 9. 253.09 (1r) (a) 1. to 8. of the statutes are created to read:

253.09 (1r) (a) 1. A sterilization procedure.

2. An abortion, as defined in s. 253.10 (2) (a).

3. An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo.

4. An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo.

5. An experiment or medical procedure on a developing child in an artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child.

6. A procedure, including a transplant procedure, that uses fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage.

7. The withholding or withdrawal of nutrition or hydration from a patient who is not in a terminal condition, as defined in s. 154.01 (8), if the withholding or withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than from an underlying illness or injury, unless the administration of nutrition or hydration is medically contraindicated.

8. An act that intentionally causes or assists in causing the death of an individual by assisted suicide, euthanasia, or mercy killing.

SECTION 10. 253.09 (2) of the statutes is amended to read:

253.09 (2) No ~~A~~ hospital or employee of any a hospital shall be liable for any civil damages resulting from is immune from liability for any damage caused by a refusal to perform sterilization procedures or remove a human embryo or fetus from a person, if such participate in an activity specified in sub. (1r) (a) 1. to 8., if the refusal is based on religious or moral precepts.

SECTION 11. 253.09 (3) of the statutes is amended to read:

253.09 (3) No hospital, school, or employer may discriminate against any person with regard to admission, hiring or firing, tenure, term, condition, or privilege of employment, student status, or staff status on the ground that the person refuses to recommend, aid or perform procedures for sterilization or the removal of a human embryo or fetus, or states an intention to refuse, whether or not in writing, to participate in an activity specified in sub. (1r) (a) 1. to 8., if the refusal is based on religious or moral precepts.

SECTION 12. 253.09 (4) (a) of the statutes is amended to read:

253.09 (4) (a) Such individual to perform or assist in ~~the performance of any sterilization procedure or removal of a human embryo or fetus~~ participate in an activity specified in sub. (1r) (a) 1. to 8., if the individual's performance or assistance participation in the performance of such a procedure would be activity is contrary to the individual's religious beliefs or moral convictions; or

SECTION 13. 253.09 (4) (b) 1. of the statutes is amended to read:

253.09 (4) (b) 1. Make its facilities available for the performance of any sterilization procedure or removal of a human embryo or fetus an individual to participate in an activity specified in sub. (1r) (a) 1. to 8., if the performance of such a procedure in such facilities is prohibited by the entity prohibits the activity from taking place in the facilities on the basis of religious beliefs or moral convictions; or

SECTION 14. 253.09 (4) (b) 2. of the statutes is amended to read:

253.09 (4) (b) 2. Provide any personnel for the performance or assistance in the performance of any sterilization procedure or assistance to participate in an activity specified in sub. (1r) (a) 1. to 8., if the performance or assistance in the performance of such procedure or the removal of a human embryo or fetus by such personnel would be activity is contrary to the religious beliefs or moral convictions of such the personnel.

SECTION 15. 253.09 (5) of the statutes is created to read:

253.09 (5) (a) In this subsection, "damages" do not include noneconomic damages, as defined in s. 893.55 (4) (a).

(b) Except for claims that are subject to s. 111.321 or 111.322, a person who is adversely affected by conduct that is in violation of this section may bring a civil action for equitable relief, including reinstatement, or damages, or both. In an action under this paragraph, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains equitable relief, damages, or both. An action under this paragraph shall be commenced within one year after the cause of action accrues or be barred.

SECTION 16. 441.06 (title) of the statutes is amended to read:

**441.06 (title) Licensure; civil liability and disciplinary exemption.**

SECTION 17. 441.06 (6) of the statutes is renumbered 441.06 (6) (b) (intro.) and amended to read:

441.06 (6) (b) (intro.) No ~~A~~ person licensed as a registered nurse under this section or as a practical nurse under s. 441.10 is liable for any civil damages resulting from immune from liability for any damage caused by his or her refusal to perform sterilization procedures or to remove or aid in the removal of a human embryo or fetus

from a person participate in any of the following, if the refusal is based on religious or moral precepts:

SECTION 18. 441.06 (6) (a) of the statutes is created to read:

441.06 (6) (a) In this subsection:

1. "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. "Human embryo" includes a zygote but does not include a human organism at or beyond the stage of development at which the major body structures are present.

2. "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body.

3. "Participate in" means to perform; practice; engage in; assist in; recommend; counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or otherwise promote, encourage, or aid.

SECTION 19. 441.06 (6) (b) 1. to 8. of the statutes are created to read:

441.06 (6) (b) 1. A sterilization procedure.

2. An abortion, as defined in s. 253.10 (2) (a).

3. An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo.

4. An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo.

5. An experiment or medical procedure on a developing child in an artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child.

6. A procedure, including a transplant procedure, that uses fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage.

7. The withholding or withdrawal of nutrition or hydration from a patient who is not in a terminal condition, as defined in s. 154.01 (8), if the withholding or withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than from an underlying illness or injury, unless the administration of nutrition or hydration is medically contraindicated.

8. An act that intentionally causes or assists in causing the death of an individual by assisted suicide, euthanasia, or mercy killing.

SECTION 20. 441.06 (7) of the statutes is created to read:

441.06 (7) A person licensed as a registered nurse under this section or as a practical nurse under s. 441.10 who, in writing, refuses, or states an intention to refuse, on moral or religious grounds to participate in a practice

of practical or professional nursing that is related to an activity specified in sub. (6) (b) 1. to 8. may not be required to participate in the practice with respect to the activity and may not be disciplined by the board or the department for refusing or stating an intention to refuse to participate in the practice with respect to the activity.

SECTION 21. 441.06 (8) of the statutes is created to read:

441.06 (8) (a) In this subsection, "damages" do not include noneconomic damages, as defined in s. 893.55 (4) (a).

(b) Except for claims that are subject to s. 111.321 or 111.322, a person who is adversely affected by conduct that is in violation of sub. (7) may bring a civil action for equitable relief, including reinstatement, or damages, or both. In an action under this paragraph, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains equitable relief, damages, or both. An action under this paragraph shall be commenced within one year after the cause of action accrues or be barred.

SECTION 22. 448.03 (5) (title) of the statutes is amended to read:

448.03 (5) (title) CIVIL LIABILITY AND DISCIPLINARY EXEMPTION: CERTAIN MEDICAL PROCEDURES AND REPORTS.

SECTION 23. 448.03 (5) (a) of the statutes is renumbered 448.03 (5) (am) (intro.) and amended to read:

448.03 (5) (am) (intro.) No A person licensed or certified under this subchapter shall be liable for any civil damages resulting from such is immune from liability for any damage caused by the person's refusal to perform sterilization procedures or to remove or aid in the removal of a human embryo or fetus from a person if such participate in any of the following if the refusal is based on religious or moral precepts:

SECTION 24. 448.03 (5) (ag) of the statutes is created to read:

448.03 (5) (ag) In this subsection:

1. "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. "Human embryo" includes a zygote but does not include a human organism at or beyond the stage of development at which the major body structures are present.

2. "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body.

3. "Participate in" means to perform; practice; engage in; assist in; recommend; counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or otherwise promote, encourage, or aid.

SECTION 25. 448.03 (5) (am) 1. to 8. of the statutes are created to read:

448.03 (5) (am) 1. A sterilization procedure.

2. An abortion, as defined in s. 253.10 (2) (a).

3. An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo.

4. An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo.

5. An experiment or medical procedure on a developing child in an artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child.

6. A procedure, including a transplant procedure, that uses fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage.

7. The withholding or withdrawal of nutrition or hydration from a patient who is not in a terminal condition, as defined in s. 154.01 (8), if the withholding or withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than from an underlying illness or injury, unless the administration of nutrition or hydration is medically contraindicated.

8. An act that intentionally causes or assists in causing the death of an individual by assisted suicide, euthanasia, or mercy killing.

**SECTION 26m.** 448.03 (5) (an) and (aq) of the statutes are created to read:

448.03 (5) (an) A person licensed or certified under this subchapter who, in writing, refuses, or states an intention to refuse, on moral or religious grounds to participate in a practice within the scope of his or her license or certification that is related to an activity specified in par. (am) 1. to 8. may not be required to participate in the practice with respect to the activity and may not be disciplined by the board or the department for refusing or stating an intention to refuse to participate in the practice with respect to the activity.

(aq) Except as provided in s. 154.07 (1) (a) 3., regarding the failure of a physician to comply with a declaration of a qualified patient that directs the physician to participate in the activity specified in par. (am) 7., and s. 155.50 (1) (b), regarding the failure of a physician to comply with a power of attorney for health care instrument or the decision of a health care agent that directs the physician to participate in the activity specified in par. (am) 7., a physician is not required to locate another physician who is willing to participate in an activity specified in par. (am) 1. to 8.

**SECTION 27.** 448.03 (5) (ar) of the statutes is created to read:

448.03 (5) (ar) 1. In this paragraph, "damages" do not include noneconomic damages, as defined in s. 893.55 (4) (a).

2. Except for claims that are subject to s. 111.321 or 111.322, a person who is adversely affected by conduct that is in violation of par. (an) or (aq) may bring a civil action for equitable relief, including reinstatement, or damages, or both. In an action under this subdivision, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains equitable relief, damages, or both. An action under this subdivision shall be commenced within one year after the cause of action accrues or be barred.

**SECTION 28.** 450.135 of the statutes is created to read:

**450.135 Pharmacist's refusal to participate in certain activities.** (1) In this section:

(a) "Human embryo" means a human organism that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells. "Human embryo" includes a zygote but does not include a human organism at or beyond the stage of development at which the major body structures are present.

(b) "In vitro human embryo" means a human embryo, whether cryopreserved or not, living outside of a woman's body.

(c) "Participate in" means to perform; practice; engage in; assist in; recommend; counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or otherwise promote, encourage, or aid.

(2) A person licensed as a pharmacist under this chapter is immune from liability for any damage caused by his or her refusal to participate in any of the following, if the refusal is based on religious or moral precepts:

(a) A sterilization procedure.

(b) An abortion, as defined in s. 253.10 (2) (a).

(c) An experiment or medical procedure that destroys an in vitro human embryo or uses cells or tissue derived from the destruction of an in vitro human embryo.

(d) An experiment or medical procedure on an in vitro human embryo that is not related to the beneficial treatment of the in vitro human embryo.

(e) An experiment or medical procedure on a developing child in an artificial womb, at any stage of development, that is not related to the beneficial treatment of the developing child.

(f) A procedure, including a transplant procedure, that uses fetal tissue or organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or miscarriage.

(g) The withholding or withdrawal of nutrition or hydration from a patient who is not in a terminal condition, as defined in s. 154.01 (8), if the withholding or withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than

from an underlying illness or injury, unless the administration of nutrition or hydration is medically contraindicated.

(h) An act that intentionally causes or assists in causing the death of an individual by assisted suicide, euthanasia, or mercy killing.

(3) (a) A person licensed as a pharmacist under this chapter who, in writing, refuses, or states an intention to refuse, on moral or religious grounds to participate in a practice of pharmacy that is related to an activity specified in sub. (2) (a) to (h) may not be required to participate in the practice with respect to the activity and may not be disciplined by the board or department for refusing or stating an intention to refuse to participate in the practice with respect to the activity.

(b) 1. In this paragraph, "damages" do not include noneconomic damages, as defined in s. 893.55 (4) (a).

2. Except for claims that are subject to s. 111.321 or 111.322, a person who is adversely affected by conduct that is in violation of par. (a) may bring a civil action for equitable relief, including reinstatement, or damages, or

both. In an action under this subdivision, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains equitable relief, damages, or both. An action under this subdivision shall be commenced within one year after the cause of action accrues or be barred.

#### **SECTION 29. Initial applicability.**

(1) The treatment of sections 111.337 (1), (1g), and (1r) (b), 253.09 (title), (1), (1g), (1r) (a) 1. to 8., (2), (3), (4) (a) and (b) 1. and 2., and (5), 441.06 (title), (7), and (8), 448.03 (5) (title), (a), (ag), (am) 1. to 8., (an), (aq), and (ar), and 450.135 of the statutes, the renumbering and amendment of section 441.06 (6) of the statutes, and the creation of section 441.06 (6) (a) and (b) 1. to 8. of the statutes first apply to refusals or statements of an intention to refuse that are made on the effective date of this subsection.

(2t) The treatment of sections 154.12, 155.75, and 448.03 (5) (aq) of the statutes first applies to declarations or powers of attorney for health care instruments that are received on the effective date of this subsection.

**ASSEMBLY BILL 67 (LRB -1170)**

An Act to renumber and amend 111.337 (1), 253.09 (1), 441.06 (6) and 448.03 (5) (a); to amend 154.03 (1) (intro.), 155.60 (3), 253.09 (title), 253.09 (2), 253.09 (3), 253.09 (4) (a), 253.09 (4) (b) 1., 253.09 (4) (b) 2., 441.06 (title) and 448.03 (5) (title); and to create 111.337 (1g), 111.337 (1r) (b), 253.09 (1g), 253.09 (1r) (a) 1. to 6., 253.09 (5), 441.06 (6) (a), 441.06 (6) (b) 1. to 6., 441.06 (7), 441.06 (8), 448.03 (5) (ag), 448.03 (5) (am), 448.03 (5) (ao), 448.03 (5) (ar) 1. to 6. and 450.135 of the statutes; relating to: employment discrimination based on creed; exemption from liability and discipline for health care providers and hospital employees who refuse to participate in sterilization, abortion, assisted suicide, and other procedures on moral or religious grounds; and power of attorney for health care instruments and patient declarations regarding the withholding or withdrawal of life-sustaining procedures or feeding tubes. (FE)

2003

10-07.	A.	Introduced by Representatives Hundertmark, Staskunas, Albers, Bies, J. Fitzgerald, Freese, Grothman, Gunderson, Gundrum, Hahn, Hines, Huebsch, Kerkman, Kestell, Krawczyk, Kreibich, Ladwig, F. Lasee, M. Lehman, LeMahieu, Loeffelholz, McCormick, D. Meyer, Montgomery, Nass, Ott, Owens, Petrowski, Rhoades, Stone, Suder, Underheim, Van Roy, Vrakas, Vukmir, Weber, Wieckert, J. Wood and Ziegelbauer; cosponsored by Senators Roessler, Reynolds, Breske, Cowles, S. Fitzgerald, Harsdorf, Kanavas, Kedzie, A. Lasee, Lazich, Leibham, Schultz, Stepp and Welch.	
02-18.	A.	Read first time and referred to committee on Labor .....	67
02-26.	A.	Fiscal estimate received.	
03-05.	A.	Assembly amendment 1 offered by Representative Hundertmark (LRB a0202) .....	90
03-05.	A.	Public hearing held.	
04-16.	A.	Fiscal estimate received.	
04-21.	A.	Assembly substitute amendment 1 offered by Representative Hundertmark (LRB s0028) .....	163
04-23.	A.	Executive action taken.	
04-29.	A.	Report Assembly Substitute Amendment 1 adoption recommended by committee on Labor, Ayes 7, Noes 2 .....	170
04-29.	A.	Report passage as amended recommended by committee on Labor, Ayes 8, Noes 1 .....	170
04-29.	A.	Referred to committee on Rules .....	170
05-22.	A.	Placed on calendar 5-29-2003 by committee on Rules.	
05-29.	A.	Read a second time .....	222
05-29.	A.	Placed at the foot of the eleventh order of business on the calendar .....	223
05-29.	A.	Laid on the table .....	225
05-29.	A.	Taken from the table .....	226
05-29.	A.	Assembly amendment 1 to Assembly substitute amendment 1 offered by Representatives Albers and Grothman (LRB a0571) .....	226
05-29.	A.	Point of order that Assembly amendment 1 to Assembly substitute amendment 1 not germane taken under advisement .....	226
05-29.	A.	Assembly amendment 2 to Assembly substitute amendment 1 offered by Representative Berceau (LRB a0566) .....	226
05-29.	A.	Assembly amendment 2 to Assembly substitute amendment 1 laid on table, Ayes 56, Noes 39 .....	226
05-29.	A.	Assembly amendment 3 to Assembly substitute amendment 1 offered by Representative Berceau (LRB a0560) .....	226
05-29.	A.	Assembly amendment 3 to Assembly substitute amendment 1 laid on table, Ayes 58, Noes 37 .....	226
05-29.	A.	Assembly amendment 4 to Assembly substitute amendment 1 offered by Representative Schneider (LRB a0561) .....	227
05-29.	A.	Point of order that Assembly amendment 4 to Assembly substitute amendment 1 not germane taken under advisement .....	227
05-29.	A.	Assembly amendment 5 to Assembly substitute amendment 1 offered by Representative Schneider (LRB a0562) .....	227
05-29.	A.	Assembly amendment 5 to Assembly substitute amendment 1 laid on table .....	227
05-29.	A.	Assembly amendment 6 to Assembly substitute amendment 1 offered by Representatives Staskunas and Huber (LRB a0546) .....	227
05-29.	A.	Assembly amendment 6 to Assembly substitute amendment 1 withdrawn and returned to author .....	227
05-29.	A.	Assembly amendment 7 to Assembly substitute amendment 1 offered by Representative Wasserman (LRB a0576) .....	227
05-29.	A.	Assembly amendment 7 to Assembly substitute amendment 1 laid on table, Ayes 53, Noes 40 .....	227
05-29.	A.	Assembly amendment 8 to Assembly substitute amendment 1 offered by Representative Wasserman (LRB a0565) .....	227
05-29.	A.	Assembly amendment 8 to Assembly substitute amendment 1 laid on table, Ayes 58, Noes 35, Paired 2 .....	227
05-29.	A.	Assembly amendment 9 to Assembly substitute amendment 1 offered by Representative Wasserman (LRB a0577) .....	228

05-29.	A.	Assembly amendment 9 to Assembly substitute amendment 1 laid on table, Ayes 56, Noes 37, Paired 2 .....	228
05-29.	A.	Assembly amendment 10 to Assembly substitute amendment 1 offered by Representatives Sinicki and Huber ( <b>LRB a0580</b> ) .....	228
05-29.	A.	Assembly amendment 10 to Assembly substitute amendment 1 laid on table, Ayes 54, Noes 39, Paired 2 ...	228
05-29.	A.	Assembly amendment 11 to Assembly substitute amendment 1 offered by Representatives Morris, Young, A. Williams, Coggs and Taylor ( <b>LRB a0579</b> ) .....	228
05-29.	A.	Assembly amendment 11 to Assembly substitute amendment 1 laid on table, Ayes 59, Noes 34, Paired 2 ...	228
05-29.	A.	Chair ruled not well taken the point of order that Assembly amendment 1 to Assembly substitute amendment 1 not germane .....	229
05-29.	A.	Assembly amendment 1 to Assembly substitute amendment 1 laid on table, Ayes 86, Noes 8 .....	229
05-29.	A.	Point of order withdrawn on Assembly amendment 4 to Assembly substitute amendment 1 .....	229
05-29.	A.	Assembly amendment 4 to Assembly substitute amendment 1 laid on table .....	229
05-29.	A.	Assembly substitute amendment 1 <b>adopted</b> , Ayes 63, Noes 30, Paired 2 .....	229
05-29.	A.	Ordered to a third reading .....	229
05-29.	A.	Refused to suspend rules to read a third time, Ayes 59, Noes 35 .....	229
06-04.	A.	Read a third time and <b>passed</b> , Ayes 56, Noes 35, Paired 6 .....	235
06-04.	A.	Refused to suspend rules to order immediately messaged, Ayes 57, Noes 36 .....	235
06-26.	S.	Received from Assembly .....	256
06-26.	S.	Read first time and referred to committee on Health, Children, Families, Aging and Long Term Care .....	257
07-30.	S.	Fiscal estimate received.	
10-07.	S.	Public hearing held.	
<b>2004</b>			
01-29.	S.	Executive action taken.	
01-30.	S.	Report introduction and adoption of Senate Amendment 1 recommended by committee on Health, Children, Families, Aging and Long Term Care, Ayes 8, Noes 1 ( <b>LRB a2013</b> ) .....	584
01-30.	S.	Report introduction and adoption of Senate Amendment 2 recommended by committee on Health, Children, Families, Aging and Long Term Care, Ayes 8, Noes 1 ( <b>LRB a2026</b> ) .....	584
01-30.	S.	Report concurrence as amended recommended by committee on Health, Children, Families, Aging and Long Term Care, Ayes 5, Noes 4 .....	584
01-30.	S.	Available for scheduling.	
02-03.	S.	Placed on calendar 2-4-2004 by committee on Senate Organization.	
02-04.	S.	Read a second time .....	600
02-04.	S.	Senate amendment 3 offered by Senator Reynolds ( <b>LRB a2100</b> ) .....	600
02-04.	S.	Senate amendment 3 withdrawn and returned to author .....	600
02-04.	S.	Senate amendment 1 <b>adopted</b> .....	600
02-04.	S.	Senate amendment 2 <b>adopted</b> .....	600
02-04.	S.	Senate amendment 4 offered by Senators Moore, Risser, Robson, Wirch, Chvala, Coggs, Lassa and Erpenbach ( <b>LRB a2119</b> ) .....	600
02-04.	S.	Senate amendment 5 offered by Senators Moore, M. Meyer, Carpenter, Robson, Chvala, Coggs, Risser, Lassa and Erpenbach ( <b>LRB a2116</b> ) .....	600
02-04.	S.	Senate amendment 4 placed after Senate amendment 5 .....	600
02-04.	S.	Senate amendment 5 rejected, Ayes 20, Noes 12 .....	600
02-04.	S.	Senate amendment 1 to Senate amendment 4 offered by Senator Moore ( <b>LRB f133</b> ) .....	600
02-04.	S.	Senate amendment 1 to Senate amendment 4 <b>adopted</b> .....	600
02-04.	S.	Senate amendment 4 rejected, Ayes 19, Noes 14 .....	600
02-04.	S.	Ordered to a third reading .....	600
02-04.	S.	Rules suspended .....	600
02-04.	S.	Read a third time and <b>concurred in</b> as amended, Ayes 20, Noes 13 .....	600
02-04.	S.	Ordered immediately messaged .....	601
02-05.	A.	Received from Senate amended and concurred in as amended (Senate amendment 1 and Senate amendment 2 adopted) .....	677
02-05.	A.	Referred to committee on Rules .....	678
02-05.	A.	Assembly amendment 1 to Senate amendment 1 offered by Representative Berceau ( <b>LRB a2131</b> ) .....	675
02-05.	A.	Assembly amendment 2 to Senate amendment 1 offered by Representative Berceau ( <b>LRB a2132</b> ) .....	675
02-05.	A.	Assembly amendment 3 to Senate amendment 1 offered by Representative Wasserman ( <b>LRB a2133</b> ) .....	675
02-05.	A.	Assembly amendment 4 to Senate amendment 1 offered by Representative Wasserman ( <b>LRB a2134</b> ) .....	675
02-05.	A.	Assembly amendment 5 to Senate amendment 1 offered by Representative Wasserman ( <b>LRB a2135</b> ) .....	675
02-05.	A.	Assembly amendment 6 to Senate amendment 1 offered by Representative Taylor ( <b>LRB a2145</b> ) .....	675
02-05.	A.	Assembly amendment 7 to Senate amendment 1 offered by Representative Sinicki ( <b>LRB a2144</b> ) .....	675
02-19.	A.	Placed on calendar 2-24-2004 by committee on Rules.	
02-24.	A.	Point of order that Assembly amendment 1 to Senate amendment 1 not germane well taken .....	719
02-24.	A.	Point of order that Assembly amendment 2 to Senate amendment 1 not germane well taken .....	720



02-24.	A.	Point of order that Assembly amendment 3 to Senate amendment 1 not germane well taken .....	720
02-24.	A.	Point of order that Assembly amendment 4 to Senate amendment 1 not germane well taken .....	720
02-24.	A.	Point of order that Assembly amendment 5 to Senate amendment 1 not germane well taken .....	720
02-24.	A.	Point of order that Assembly amendment 6 to Senate amendment 1 not germane taken under advisement ...	720
02-24.	A.	Point of order that Assembly amendment 7 to Senate amendment 1 not germane well taken .....	720
02-24.	A.	Assembly amendment 8 to Senate amendment 1 offered by Representative Wasserman ( <b>LRB a2308</b> ) .....	720
02-24.	A.	Point of order that Assembly amendment 8 to Senate amendment 1 not germane well taken .....	720
02-24.	A.	Assembly amendment 9 to Senate amendment 1 offered by Representative Johnsrud ( <b>LRB a2148</b> ) .....	720
02-24.	A.	Point of order that Assembly amendment 9 to Senate amendment 1 not germane well taken .....	720
02-24.	A.	Chair ruled well taken the point of order that Assembly amendment 6 to Senate amendment 1 not germane .....	720
02-24.	A.	Senate amendment 1 <b>concurred in</b> .....	720
02-24.	A.	Senate amendment 2 <b>concurred in</b> .....	720
02-24.	A.	Refused to suspend rules to order action immediately messaged, Ayes 60, Noes 37 .....	720

**2003**  
**ENROLLED BILL**

03en A B- 67

**ADOPTED DOCUMENTS:**

☐ Orig ☐ Engr

A SubAmdt 1

03

0028, 2

Amendments to above (if none, write "NONE"):

SA1, SA2

Corrections - show date (if none, write "NONE"):

CCC in enrolling 3/12/04

Topic

Refusals of certain health care professionals and employees to participate in certain activities based on moral or religious grounds

3/04/04

Date

[Signature]

Enrolling Drafter

**ELECTRONIC PROCEDURE:**

Follow automatic or manual enrolling procedures in *TEXT2000 Reference Guide*, Document Specific Procedures, Ch. 20, Engrossing and Enrolling

**DISTRIBUTION:**

**HOUSE OF ORIGIN:**

- 11 copies plus bill jacket
- Secretary of State's envelope containing 4 copies plus newspaper notice

**REVISOR OF STATUTES:**

- 5 copies

**DEPARTMENT OF ADMINISTRATION:**

- 2 copies

**LRB:**

- Drafting file ..... original
- Drafting attorney ..... 1 copy
- Legislative editors ..... 1 copy each
- Reference section ..... 1 copy
- Bill index librarian ..... 1 copy

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 67**

April 21, 2003 - Offered by Representative HUNDERTMARK.

1     **AN ACT** *to renumber and amend* 111.337 (1), 253.09 (1), 441.06 (6) and 448.03  
2           (5) (a); *to amend* 154.03 (1) (intro.), 155.60 (3), 253.09 (title), 253.09 (2), 253.09  
3           (3), 253.09 (4) (a), 253.09 (4) (b) 1., 253.09 (4) (b) 2., 441.06 (title) and 448.03 (5)  
4           (title); and *to create* 111.337 (1g), 111.337 (1r) (b), 253.09 (1g), 253.09 (1r) (a)  
5           1. to 8., 253.09 (5), 441.06 (6) (a), 441.06 (6) (b) 1. to 8., 441.06 (7), 441.06 (8),  
6           448.03 (5) (ag), 448.03 (5) (am) 1. to 8., 448.03 (5) (ao), 448.03 (5) (ar) and  
7           450.135 of the statutes; **relating to:** employment discrimination based on  
8           creed; exemption from liability and discipline for health care providers and  
9           hospital employees who refuse to participate in sterilization, abortion, assisted  
10          suicide, and other procedures on moral or religious grounds; and power of  
11          attorney for health care instruments and patient declarations regarding the  
12          withholding or withdrawal of ~~life-sustaining procedures or feeding tubes.~~

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 111.337 (1) of the statutes is renumbered 111.337 (1r) (intro.) and  
2 amended to read:

3           111.337 (1r) (intro.) Employment discrimination because of creed includes, but  
4 is not limited to, refusing any of the following:

5           (a) Refusing to reasonably accommodate an employee's or prospective  
6 employee's religious observance or practice unless the employer can demonstrate  
7 that the accommodation would pose an undue hardship on the employer's program,  
8 enterprise, or business.

9           **SECTION 2.** 111.337 (1g) of the statutes is created to read:

10          111.337 (1g) In this section:

11          (a) "Human embryo" means a human organism that is derived by fertilization,  
12 parthenogenesis, cloning, or any other means from one or more human gametes or  
13 human diploid cells. "Human embryo" includes a zygote but does not include a  
14 human organism at or beyond the stage of development at which the major body  
15 structures are present.

16          (b) "In vitro human embryo" means a human embryo, whether cryopreserved  
17 or not, living outside of a woman's body.

18          (c) "Participate in" means to perform; practice; engage in; assist in; recommend;  
19 counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or  
20 devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or  
21 otherwise promote, encourage, or aid.

22          **SECTION 3.** 111.337 (1r) (b) of the statutes is created to read:

23          111.337 (1r) (b) Discriminating against an employee or prospective employee  
24 by engaging in any of the actions prohibited under s. 111.322 on the basis of the  
25 employee's or prospective employee's refusal, or statement of an intention to refuse,

1 whether or not in writing, based on his or her creed, to participate in any of the  
2 following:

3 1. A sterilization procedure.

4 2. An abortion, as defined in s. 253.10 (2) (a).

5 3. An experiment or medical procedure that destroys an in vitro human embryo  
6 or uses cells or tissue derived from the destruction of an in vitro human embryo.

7 4. An experiment or medical procedure on an in vitro human embryo that is not  
8 related to the beneficial treatment of the in vitro human embryo. ✓ *an SA2*

9 5. An experiment or medical procedure on a developing child in ~~a natural or~~  
10 artificial womb, at any stage of development, that is not related to the beneficial  
11 treatment of the developing child.

12 6. A procedure, including a transplant procedure, that uses fetal tissue or  
13 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or  
14 miscarriage. *3-15 SA2*

15 7. The withholding or withdrawal of nutrition or hydration, if the withholding  
16 or withdrawal of nutrition or hydration would result in the patient's death from  
17 malnutrition or dehydration, or complications of malnutrition or dehydration, rather  
18 than from ~~the underlying terminal illness or injury~~ *an underlying SA2*, unless the administration of  
19 nutrition or hydration is medically contraindicated.

20 8. An act that intentionally causes or assists in causing the death of an  
21 individual, ~~such as~~ *SA2* by assisted suicide, euthanasia, or mercy killing.

22 **SECTION 4.** 154.03 (1) (intro.) of the statutes is amended to read:

23 154.03 (1) (intro.) ~~Any person of sound mind and 18 years of age or older may~~  
24 ~~at any time voluntarily execute a declaration, which shall take effect on the date of~~  
25 ~~execution, authorizing the withholding or withdrawal of life-sustaining procedures~~

1 or of feeding tubes when the person is in a terminal condition or is in a persistent  
2 vegetative state. A declarant may not authorize the withholding or withdrawal of  
3 any medication, life-sustaining procedure, or feeding tube if the declarant's  
4 attending physician advises that, in his or her professional judgment, the  
5 withholding or withdrawal will cause the declarant pain or reduce the declarant's  
6 comfort and the pain or discomfort cannot be alleviated through pain relief  
7 measures. A declarant may not authorize the withholding or withdrawal of nutrition  
8 or hydration that is administered or otherwise received by the declarant through  
9 means other than a feeding tube unless the declarant's attending physician advises  
10 that, in his or her professional judgment, the administration is medically  
11 contraindicated. A declaration must be signed by the declarant in the presence of 2  
12 witnesses. If the declarant is physically unable to sign a declaration, the declaration  
13 must be signed in the declarant's name by one of the witnesses or some other person  
14 at the declarant's express direction and in his or her presence; such a proxy signing  
15 shall either take place or be acknowledged by the declarant in the presence of 2  
16 witnesses. The declarant is responsible for notifying his or her attending physician  
17 of the existence of the declaration. An attending physician who is so notified shall  
18 immediately review the declaration and, if the physician intends to invoke his or her  
19 rights under s. 253.09, shall, as soon as possible, inform the declarant orally and in  
20 writing of that intent and of the physician's concerns, if any, about the declaration.  
21 An attending physician who is so notified shall also make the declaration a part of  
22 the declarant's medical records. No witness to the execution of the declaration may,  
23 at the time of the execution, be any of the following:

24 **SECTION 5.** 155.60 (3) of the statutes is amended to read:

SAI

B-3-22 SA1 ✓

155.60 (3) Upon receipt of a power of attorney for health care instrument or a statement of incapacity under s. 155.05 (2), a health care facility or health care provider shall acknowledge this receipt in writing and, if the principal is a patient of the health care provider, the health care provider shall include the instrument or the statement in the medical record of the principal. In addition, if the health care provider is a physician and the principal is a patient of the physician, the physician shall immediately review the instrument or statement and, if the physician intends to invoke his or her rights under s. 253.09, shall, as soon as possible, inform the principal orally and in writing of that intent and of the physician's concerns, if any, about the instrument or statement.

SECTION 6. 253.09 (title) of the statutes is amended to read:

**253.09 (title) ~~Abortion refused~~ Refusal to participate in certain practices; no liability; no discrimination.**

SECTION 7. 253.09 (1) of the statutes is renumbered 253.09 (1r) (a) (intro.) and amended to read:

253.09 (1r) (a) (intro.) No hospital shall be is required to admit any patient or to allow the use of the hospital facilities for the purpose of performing a sterilization procedure or removing a human embryo or fetus. any of the following:

(b) A physician or any other person who is a member of or associated with the staff of a hospital, or any employee of a hospital in which ~~such a procedure~~ the performance of an activity specified in par. (a) 1. to 8. has been authorized, who shall ~~state in writing his or her objection to the performance of or providing assistance to such a procedure, in writing, refuses, or states an intention to refuse, to participate in the activity~~ on moral or religious grounds shall ~~may~~ not be required to participate in such medical procedure, and the activity.

1        (c) A physician or any other person who is a member of or associated with the  
2        staff of a hospital, or any employee of a hospital, is immune from liability for any  
3        damage caused by, and may not be subjected to any disciplinary or recriminatory  
4        action based on, the refusal of any such the person to participate therein shall not  
5        form the basis of any claim for damages on account of such refusal or for any  
6        disciplinary or recriminatory action against such person in an activity specified in  
7        par. (a) 1. to 8. on moral or religious grounds.

8        **SECTION 8.** 253.09 (1g) of the statutes is created to read:

9        **253.09 (1g)** In this section:

10        (a) “Human embryo” means a human organism that is derived by fertilization,  
11        parthenogenesis, cloning, or any other means from one or more human gametes or  
12        human diploid cells. “Human embryo” includes a zygote but does not include a  
13        human organism at or beyond the stage of development at which the major body  
14        structures are present.

15        (b) “In vitro human embryo” means a human embryo, whether cryopreserved  
16        or not, living outside of a woman’s body.

17        (c) “Participate in” means to perform; practice; engage in; assist in; recommend;  
18        counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or  
19        devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or  
20        otherwise promote, encourage, or aid.

21        **SECTION 9.** 253.09 (1r) (a) 1. to 8. of the statutes are created to read:

22        **253.09 (1r) (a) 1.** A sterilization procedure.

23        2. An abortion, as defined in s. 253.10 (2) (a).

24        3. An experiment or medical procedure that destroys an in vitro human embryo  
25        or uses cells or tissue derived from the destruction of an in vitro human embryo.



1           4. An experiment or medical procedure on an in vitro human embryo that is not  
2 related to the beneficial treatment of the in vitro human embryo.

3           5. An experiment or medical procedure on a developing child in <sup>an</sup> ~~a natural or~~ <sup>SA2</sup>  
4 artificial womb, at any stage of development, that is not related to the beneficial  
5 treatment of the developing child.

6           6. A procedure, including a transplant procedure, that uses fetal tissue or  
7 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or  
8 miscarriage.

9           7. The withholding or withdrawal of nutrition or hydration, if the withholding  
10 or withdrawal of nutrition or hydration would result in the patient's death from  
11 malnutrition or dehydration, or complications of malnutrition or dehydration, rather  
12 than from ~~the underlying terminal~~ <sup>an underlying SA2</sup> illness or injury, unless the administration of  
13 nutrition or hydration is medically contraindicated.

14           8. An act that intentionally causes or assists in causing the death of an  
15 individual, <sup>SA2</sup> ~~such as by~~ assisted suicide, euthanasia, or mercy killing.

16           SECTION 10. 253.09 (2) of the statutes is amended to read:

17           253.09 (2) ~~No A hospital or employee of any a hospital shall be liable for any~~  
18 ~~civil damages resulting from~~ is immune from liability for any damage caused by a  
19 ~~refusal to perform sterilization procedures or remove a human embryo or fetus from~~  
20 ~~a person, if such~~ participate in an activity specified in sub. (1r) (a) 1. to 8., if the  
21 refusal is based on religious or moral precepts.

22           SECTION 11. 253.09 (3) of the statutes is amended to read:

23           253.09 (3) No hospital, school, or employer may discriminate against any  
24 person with regard to admission, hiring or firing, tenure, term, condition, or privilege  
25 of employment, student status, or staff status on the ground that the person refuses

1 ~~to recommend, aid or perform procedures for sterilization or the removal of a human~~  
2 ~~embryo or fetus, or states an intention to refuse, whether or not in writing, to~~  
3 ~~participate in an activity specified in sub. (1r) (a) 1. to 8., if the refusal is based on~~  
4 religious or moral precepts.

5 SECTION 12. 253.09 (4) (a) of the statutes is amended to read:

6 253.09 (4) (a) Such individual ~~to perform or assist in the performance of any~~  
7 ~~sterilization procedure or removal of a human embryo or fetus~~ participate in an  
8 activity specified in sub. (1r) (a) 1. to 8., if the individual's performance or assistance  
9 participation in the performance of such a procedure would be activity is contrary to  
10 the individual's religious beliefs or moral convictions; or

11 SECTION 13. 253.09 (4) (b) 1. of the statutes is amended to read:

12 253.09 (4) (b) 1. Make its facilities available for ~~the performance of any~~  
13 ~~sterilization procedure or removal of a human embryo or fetus~~ an individual to  
14 participate in an activity specified in sub. (1r) (a) 1. to 8., if the performance of such  
15 a procedure in such facilities is prohibited by the entity prohibits the activity from  
16 taking place in the facilities on the basis of religious beliefs or moral convictions; or

17 SECTION 14. 253.09 (4) (b) 2. of the statutes is amended to read:

18 253.09 (4) (b) 2. Provide any personnel ~~for the performance or assistance in the~~  
19 ~~performance of any sterilization procedure or assistance to~~ participate in an activity  
20 specified in sub. (1r) (a) 1. to 8., if the performance or assistance in the performance  
21 of such procedure or the removal of a human embryo or fetus by such personnel would  
22 be activity is contrary to the religious beliefs or moral convictions of such the  
23 personnel.

24 SECTION 15. 253.09 (5) of the statutes is created to read:

1           253.09 (5) (a) In this subsection, “damages” do not include noneconomic  
2 damages, as defined in s. 893.55 (4) (a).

3           (b) Except for claims that are subject to s. 111.321 or 111.322, a person who is  
4 adversely affected by conduct that is in violation of this section may bring a civil  
5 action for equitable relief, including reinstatement, or damages, or both. In an action  
6 under this paragraph, the court shall award reasonable attorney fees,  
7 notwithstanding s. 814.04 (1), to a person who obtains equitable relief, damages, or  
8 both. An action under this paragraph shall be commenced within one year after the  
9 cause of action accrues or be barred.

10           **SECTION 16.** 441.06 (title) of the statutes is amended to read:

11           **441.06 (title) Licensure; civil liability and disciplinary exemption.**

12           **SECTION 17.** 441.06 (6) of the statutes is renumbered 441.06 (6) (b) (intro.) and  
13 amended to read:

14           441.06 (6) (b) (intro.) ~~No~~ A person licensed as a registered nurse under this  
15 section ~~or as a practical nurse under s. 441.10 is liable for any civil damages resulting~~  
16 ~~from~~ immune from liability for any damage caused by his or her refusal to perform  
17 ~~sterilization procedures or to remove or aid in the removal of a human embryo or~~  
18 ~~fetus from a person~~ participate in any of the following, if the refusal is based on  
19 religious or moral precepts:

20           **SECTION 18.** 441.06 (6) (a) of the statutes is created to read:

21           441.06 (6) (a) In this subsection:

22           1. “Human embryo” means a human organism that is derived by fertilization,  
23 parthenogenesis, cloning, or any other means from one or more human gametes or  
24 human diploid cells. “Human embryo” includes a zygote but does not include a

1 human organism at or beyond the stage of development at which the major body  
2 structures are present.

3 2. "In vitro human embryo" means a human embryo, whether cryopreserved  
4 or not, living outside of a woman's body.

5 3. "Participate in" means to perform; practice; engage in; assist in; recommend;  
6 counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or  
7 devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or  
8 otherwise promote, encourage, or aid.

9 SECTION 19. 441.06 (6) (b) 1. to 8. of the statutes are created to read:

10 441.06 (6) (b) 1. A sterilization procedure.

11 2. An abortion, as defined in s. 253.10 (2) (a).

12 3. An experiment or medical procedure that destroys an in vitro human embryo  
13 or uses cells or tissue derived from the destruction of an in vitro human embryo.

14 4. An experiment or medical procedure on an in vitro human embryo that is not  
15 related to the beneficial treatment of the in vitro human embryo. ✓

16 5. An experiment or medical procedure on a developing child in ~~a natural or~~ *an SA2*  
17 artificial womb, at any stage of development, that is not related to the beneficial  
18 treatment of the developing child.

19 6. A procedure, including a transplant procedure, that uses fetal tissue or  
20 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or  
21 miscarriage.

22 7. The withholding or withdrawal of nutrition or hydration, if the withholding  
23 or withdrawal of nutrition or hydration would result in the patient's death from  
24 malnutrition or dehydration, or complications of malnutrition or dehydration, rather

1 than from the underlying terminal illness or injury, unless the administration of  
2 nutrition or hydration is medically contraindicated.

3 8. An act that intentionally causes or assists in causing the death of an  
4 individual, such as by assisted suicide, euthanasia, or mercy killing.

5 **SECTION 20.** 441.06 (7) of the statutes is created to read:

6 441.06 (7) A person licensed as a registered nurse under this section or as a  
7 practical nurse under s. 441.10 who, in writing, refuses, or states an intention to  
8 refuse, on moral or religious grounds to participate in a practice of practical or  
9 professional nursing that is related to an activity specified in sub. (6) (b) 1. to 8. may  
10 not be required to participate in the practice with respect to the activity and may not  
11 be disciplined by the board or the department for refusing or stating an intention to  
12 refuse to participate in the practice with respect to the activity.

13 **SECTION 21.** 441.06 (8) of the statutes is created to read:

14 441.06 (8) (a) In this subsection, “damages” do not include noneconomic  
15 damages, as defined in s. 893.55 (4) (a).

16 (b) Except for claims that are subject to s. 111.321 or 111.322, a person who is  
17 adversely affected by conduct that is in violation of sub. (7) may bring a civil action  
18 for equitable relief, including reinstatement, or damages, or both. In an action under  
19 this paragraph, the court shall award reasonable attorney fees, notwithstanding s.  
20 814.04 (1), to a person who obtains equitable relief, damages, or both. An action  
21 under this paragraph shall be commenced within one year after the cause of action  
22 accrues or be barred.

23 **SECTION 22.** 448.03 (5) (title) of the statutes is amended to read:

24 448.03 (5) (title) CIVIL LIABILITY AND DISCIPLINARY EXEMPTION; CERTAIN MEDICAL  
25 PROCEDURES AND REPORTS.

1       **SECTION 23.** 448.03 (5) (a) of the statutes is renumbered 448.03 (5) (am) (intro.)  
2       and amended to read:

3       448.03 (5) (am) (intro.) ~~No~~ A person licensed or certified under this subchapter  
4       ~~shall be liable for any civil damages resulting from such~~ is immune from liability for  
5       any damage caused by the person's refusal to perform sterilization procedures or to  
6       ~~remove or aid in the removal of a human embryo or fetus from a person if such~~  
7       participate in any of the following if the refusal is based on religious or moral  
8       precepts;

9       **SECTION 24.** 448.03 (5) (ag) of the statutes is created to read:

10       448.03 (5) (ag) In this subsection:

11       1. "Human embryo" means a human organism that is derived by fertilization,  
12       parthenogenesis, cloning, or any other means from one or more human gametes or  
13       human diploid cells. "Human embryo" includes a zygote but does not include a  
14       human organism at or beyond the stage of development at which the major body  
15       structures are present.

16       2. "In vitro human embryo" means a human embryo, whether cryopreserved  
17       or not, living outside of a woman's body.

18       3. "Participate in" means to perform; practice; engage in; assist in; recommend;  
19       counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or  
20       devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or  
21       otherwise promote, encourage, or aid.

22       **SECTION 25.** 448.03 (5) (am) 1. to 8. of the statutes are created to read:

23       448.03 (5) (am) 1. A sterilization procedure.

24       2. An abortion, as defined in s. 253.10 (2) (a).

1           3. An experiment or medical procedure that destroys an in vitro human embryo  
2 or uses cells or tissue derived from the destruction of an in vitro human embryo.

3           4. An experiment or medical procedure on an in vitro human embryo that is not  
4 related to the beneficial treatment of the in vitro human embryo.

5           5. An experiment or medical procedure on a developing child in a natural or  
6 artificial womb, at any stage of development, that is not related to the beneficial  
7 treatment of the developing child. *an SAZ*

8           6. A procedure, including a transplant procedure, that uses fetal tissue or  
9 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or  
10 miscarriage. *13-11 SAZ*

11           7. The withholding or withdrawal of nutrition or hydration, if the withholding  
12 or withdrawal of nutrition or hydration would result in the patient's death from  
13 malnutrition or dehydration, or complications of malnutrition or dehydration, rather  
14 than from the underlying terminal illness or injury, unless the administration of  
15 nutrition or hydration is medically contraindicated. *SAZ*

16           8. An act that intentionally causes or assists in causing the death of an  
17 individual *SAZ* such as by assisted suicide, euthanasia, or mercy killing. *SAZ*

18           **SECTION 26.** 448.03 (5) (ao) of the statutes is created to read:

19           448.03 (5) (ao) A person licensed or certified under this subchapter who, in  
20 writing, refuses, or states an intention to refuse, on moral or religious grounds to  
21 participate in a practice within the scope of his or her license or certification that is  
22 related to an activity specified in par. (am) 1. to 8. may not be required to participate  
23 in the practice with respect to the activity and, notwithstanding ss. 154.07 (1) (a) 3.  
24 and 155.50 (1) (b), may not be disciplined by the board or the department for refusing  
25 or stating an intention to refuse to participate in the practice with respect to the

1 activity, including refusing or stating an intention to refuse to transfer a patient to  
2 another physician who will comply with a declaration, as defined in s. 154.02 (1),  
3 instrument for power of attorney for health care, as defined in s. 155.01 (10), or  
4 health care decision, as defined in s. 155.01 (5), of a health care agent, as defined in  
5 s. 155.01 (4). This paragraph does not apply to the refusal to make a good faith  
6 attempt to transfer a declarant with incapacity, as defined in s. 155.01 (8) and with  
7 a terminal condition, as defined in s. 154.01 (8), to another physician who will comply  
8 with the declaration, as defined in s. 154.02 (1), of the declarant. SA1 ✓

9 SECTION 27. 448.03 (5) (ar) of the statutes is created to read:

10 448.03 (5) (ar) 1. In this paragraph, "damages" do not include noneconomic  
11 damages, as defined in s. 893.55 (4) (a). SA1 ✓

12 2. Except for claims that are subject to s. 111.321 or 111.322, a person who is  
13 adversely affected by conduct that is in violation of par. (a) may bring a civil action  
14 for equitable relief, including reinstatement, or damages, or both. In an action under  
15 this subdivision, the court shall award reasonable attorney fees, notwithstanding s.  
16 814.04 (1), to a person who obtains equitable relief, damages, or both. An action  
17 under this subdivision shall be commenced within one year after the cause of action  
18 accrues or be barred. (an) or (ag)

19 SECTION 28. 450.135 of the statutes is created to read:

20 450.135 Pharmacist's refusal to participate in certain activities. (1) In  
21 this section:

22 (a) "Human embryo" means a human organism that is derived by fertilization,  
23 parthenogenesis, cloning, or any other means from one or more human gametes or  
24 human diploid cells. "Human embryo" includes a zygote but does not include a



1 human organism at or beyond the stage of development at which the major body  
2 structures are present.

3 (b) "In vitro human embryo" means a human embryo, whether cryopreserved  
4 or not, living outside of a woman's body.

5 (c) "Participate in" means to perform; practice; engage in; assist in; recommend;  
6 counsel in favor of; make referrals for; prescribe, dispense, or administer drugs or  
7 devices, other than contraceptive articles, as defined in s. 450.155 (1) (a), for; or  
8 otherwise promote, encourage, or aid.

9 (2) A person licensed as a pharmacist under this chapter is immune from  
10 liability for any damage caused by his or her refusal to participate in any of the  
11 following, if the refusal is based on religious or moral precepts:

12 (a) A sterilization procedure.

13 (b) An abortion, as defined in s. 253.10 (2) (a).

14 (c) An experiment or medical procedure that destroys an in vitro human  
15 embryo or uses cells or tissue derived from the destruction of an in vitro human  
16 embryo.

17 (d) An experiment or medical procedure on an in vitro human embryo that is  
18 not related to the beneficial treatment of the in vitro human embryo.

19 (e) An experiment or medical procedure on a developing child in ~~a natural or~~ <sup>an</sup> <sup>SA2</sup>  
20 artificial womb, at any stage of development, that is not related to the beneficial  
21 treatment of the developing child.

22 (f) A procedure, including a transplant procedure, that uses fetal tissue or  
23 organs other than fetal tissue or organs from a stillbirth, spontaneous abortion, or  
24 miscarriage.

16-1 GAR

(g) The withholding or withdrawal of nutrition or hydration, if the withholding or withdrawal of nutrition or hydration would result in the patient's death from malnutrition or dehydration, or complications of malnutrition or dehydration, rather than from the underlying terminal illness or injury, unless the administration of nutrition or hydration is medically contraindicated.

(h) An act that intentionally causes or assists in causing the death of an individual, such as by assisted suicide, euthanasia, or mercy killing.

(3) (a) A person licensed as a pharmacist under this chapter who, in writing, refuses, or states an intention to refuse, on moral or religious grounds to participate in a practice of pharmacy that is related to an activity specified in sub. (2) (a) to (h) may not be required to participate in the practice with respect to the activity and may not be disciplined by the board or department for refusing or stating an intention to refuse to participate in the practice with respect to the activity.

(b) 1. In this paragraph, "damages" do not include noneconomic damages, as defined in s. 893.55 (4) (a).

2. Except for claims that are subject to s. 111.321 or 111.322, a person who is adversely affected by conduct that is in violation of par. (a) may bring a civil action for equitable relief, including reinstatement, or damages, or both. In an action under this subdivision, the court shall award reasonable attorney fees, notwithstanding s. 814.04 (1), to a person who obtains equitable relief, damages, or both. An action under this subdivision shall be commenced within one year after the cause of action accrues or be barred.

### SECTION 29. Initial applicability.

(1) The treatment of sections 111.337 (1), (1g), and (1r) (b), 253.09 (title), (1), (1g), (1r) (a) 1. to 8., (2), (3), (4) (a) and (b) 1. and 2., and (5), 441.06 (title), (7), and

1 (8), 448.03 (5) (title), (a), (ag), (am) 1. to 8., ~~(an)~~, and (ar), and 450.135 of the statutes,  
2 the renumbering and amendment of section 441.06 (6) of the statutes, and the  
3 creation of section 441.06 (6) (a) and (b) 1. to 8. of the statutes first apply to refusals  
4 or statements of an intention to refuse that are made on the effective date of this  
5 subsection.

6 (2) The treatment of section 154.03 (1) of the statutes first applies to  
7 notifications made on the effective date of this subsection.

8 (3) The treatment of section 155.60 (3) of the statutes first applies to power of  
9 attorney for health care instruments and statements of incapacity received on the  
10 effective date of this subsection.

11 (END)

17-6

SA ✓



State of Wisconsin  
2003-2004 LEGISLATURE

**CORRECTIONS IN:**

1 **SENATE AMENDMENT 1**

2 **TO 2003 ASSEMBLY BILL 67**

3 Prepared by the Legislative Reference Bureau  
4 (March 12, 2004)

5 In enrolling, the following correction was made:

6 **1.** Page 3, line 13: delete that line and substitute:

7 "4m. Page 17, line 1: delete "(ao)" and substitute "(an), (aq)".".

8 (END)

**SENATE AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 67**

January 30, 2004 - Offered by COMMITTEE ON HEALTH, CHILDREN, FAMILIES, AGING  
AND LONG TERM CARE.

1           At the locations indicated, amend the bill, as shown by assembly substitute  
2           amendment 1, as follows:

3           **1.** Page 3, line 22: delete the material beginning with that line and ending with  
4           page 5, line 10, and substitute:

5           ~~"SECTION 4m. 154.12 of the statutes is created to read:~~

6           **154.12 Conscience rights notification.** A physician who receives a  
7           declaration from his or her patient who is a declarant, or, if the patient is  
8           incompetent, from a legal representative of the patient, shall immediately review the  
9           declaration and, if the physician intends to invoke his or her rights under s. 253.09  
10          or 448.03 (5), shall, as soon as possible, inform the patient or the legal representative  
11          orally and in writing of that intent and of the physician's concerns, if any, about the  
12          declaration. A hospital that receives a declaration from a patient in its facility who  
13          is a declarant, or, if the patient is incompetent, from a legal representative of the

3-22



3-22 cert

1 patient, shall immediately review the declaration and, if the hospital intends to  
2 invoke its rights under s. 253.09, shall, as soon as possible, inform the patient or the  
3 legal representative orally and in writing of that intent and of the hospital's  
4 concerns, if any, about the declaration.

5 **SECTION 5m.** 155.75 of the statutes is created to read:

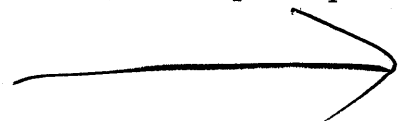
6 **155.75 Conscience rights notification.** A physician who receives a power  
7 of attorney for health care instrument from his or her patient who is a principal, or,  
8 if the patient has incapacity, from the patient's health care agent, shall immediately  
9 review the instrument and, if the physician intends to invoke his or her rights under  
10 s. 253.09 or 448.03 (5), shall, as soon as possible, inform the patient or the patient's  
11 health care agent orally and in writing of that intent and of the physician's concerns,  
12 if any, about the instrument. A hospital that receives a power of attorney for health  
13 care instrument from a patient in its facility who is a principal, or, if the patient has  
14 incapacity, from the patient's health care agent, shall immediately review the  
15 instrument and, if the hospital intends to invoke its rights under s. 253.09, shall, as  
16 soon as possible, inform the patient or the patient's health care agent orally and in  
17 writing of that intent and of the hospital's concerns, if any, about the instrument.

18 **2.** Page 13, line 18: delete the material beginning with that line and ending  
19 with page 14, line 8, and substitute:

20 **"SECTION 26m.** 448.03 (5) (an) and (aq) of the statutes are created to read:

21 448.03 (5) (an) A person licensed or certified under this subchapter who, in  
22 writing, refuses, or states an intention to refuse, on moral or religious grounds to  
23 participate in a practice within the scope of his or her license or certification that is  
24 related to an activity specified in par. (am) 1. to 8. may not be required to participate

13-18



13-18 Gr

1 in the practice with respect to the activity and may not be disciplined by the board  
2 or the department for refusing or stating an intention to refuse to participate in the  
3 practice with respect to the activity.

4 (aq) Except as provided in s. 154.07 (1) (a) 3., regarding the failure of a  
5 physician to comply with a declaration of a qualified patient that directs the  
6 physician to participate in the activity specified in par. (am) 7., and s. 155.50 (1) (b),  
7 regarding the failure of a physician to comply with a power of attorney for health care  
8 instrument or the decision of a health care agent that directs the physician to  
9 participate in the activity specified in par. (am) 7., a physician is not required to  
10 locate another physician who is willing to participate in an activity specified in par.  
11 (am) 1. to 8.?

12 **3.** Page 14, line 13: delete "(ao)" and substitute "(an) or (aq)".

13 **4.** Page 17, line 1: delete "(ao)" and substitute "(an) or (aq)".

14 **5.** Page 17, line 6: delete lines 6 to 10 and substitute:

15 "(2t) The treatment of sections 154.12, 155.75, and 448.03 (5) (aq) of the  
16 statutes first applies to declarations or powers of attorney for health care  
17 instruments that are received on the effective date of this subsection.?"

18 7-6 (END)

**SENATE AMENDMENT 2,  
TO 2003 ASSEMBLY BILL 67**

January 30, 2004 - Offered by COMMITTEE ON HEALTH, CHILDREN, FAMILIES, AGING  
AND LONG TERM CARE.

1           At the locations indicated, amend the bill, as shown by assembly substitute  
2   amendment 1, as follows:

3           **1.** Page 1, line 12: delete "life-sustaining procedures or".

4           **2.** Page 3, line 9: delete "a natural or" and substitute "an".

5           **3.** Page 3, line 15: after "hydration" insert "from a patient who is not in a  
6   terminal condition, as defined in s. 154.01 (8)".

7           **4.** Page 3, line 18: delete "the underlying terminal" and substitute "an  
8   underlying".

9           **5.** Page 3, line 21: delete ", such as".

10          **6.** Page 7, line 3: delete "a natural or" and substitute "an".

11          **7.** Page 7, line 9: after "hydration" insert "from a patient who is not in a  
12   terminal condition, as defined in s. 154.01 (8)".



1           **8.** Page 7, line 12: delete “the underlying terminal” and substitute “an  
2 underlying”.

3           **9.** Page 7, line 15: delete “, such as”.

4           **10.** Page 10, line 16: delete “a natural or” and substitute “an”.

5           **11.** Page 10, line 22: after “hydration” insert “from a patient who is not in a  
6-22 terminal condition, as defined in s. 154.01 (8)”.

7           **12.** Page 11, line 1: delete “the underlying terminal” and substitute “an  
8 underlying”.

9           **13.** Page 11, line 4: delete “, such as”.

10          **14.** Page 13, line 5: delete “a natural or” and substitute “an”.

11          **15.** Page 13, line 11: after “hydration” insert “from a patient who is not in a  
12-11 terminal condition, as defined in s. 154.01 (8)”.

13          **16.** Page 13, line 14: delete “the underlying terminal” and substitute “an  
14 underlying”. ✓

15          **17.** Page 13, line 17: delete “, such as”. ✓

16          **18.** Page 15, line 19: delete “a natural or” and substitute “an”. ✓

17          **19.** Page 16, line 1: after “hydration” insert “from a patient who is not in a  
18-1 terminal condition, as defined in s. 154.01 (8)”.

19          **20.** Page 16, line 4: delete “the underlying terminal” and substitute “an  
20 underlying”. ✓

21          **21.** Page 16, line 7: delete “, such as”. ✓

22  
(END)